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O/ Iron & Steel/53

1953.

File No. 78/53

Legal Department

I. BRANCH

Subject:—

Opinions Under the

Iron & Steel (Control & Production &

Distribution) Order 1941.

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Civil Department.

The P.P.C. is requested to advise whether a prosecution should be filed against Shri Gogate the proprietor of M/s. National Commercial Corporation for breach of clause 8 of the Iron and Steel (Control of Production and Distribution) Order, 1941, or whether 'C' summary should be obtained in the case as advised by the Senior Public Prosecutor, Belgaum.

The view taken by the Senior Public Prosecutor, Belgaum that there is no evidence of breach of condition of the permit under which Shri Gogate acquired iron and steel, is not correct. Originally the permit was granted for erection of motor garage at Belgaum and one of the conditions of the permit was that the acquisition of iron and steel which was authorised on that permit must not be used for any purpose other than the purposes mentioned in the permit. Shri Gogate acquired 6.30 tons of iron and steel under the permit comprising of angles, flats and C.G.I.sheets. Out of this quantity, he used only 514 Rft. of angles, 180 numbers of C.G.I. sheets for the erection of the garage. Out of the remaining balance 30 numbers of C.G.I. sheets were used for the erection of a cow shed and 250 Rft. of angles and 150 Rft. of angles for motor body building contrary to the terms of the permit. Shri Gogate's contention that behind indirectly an oral permission

of the Supervisor, Poona, is not supported by evidence. It is clear from the papers that on 27th August 1948, the National Commercial Corporation made an application to the Provincial Iron and Steel Rationing Officer that they were very much in need of a cow and shed as per plan inclosed with their letter and requested that they may be allowed to utilise the material from the stock in their possession. A similar application was made on the 2nd December 194 stating that they needed 250 Mft. of angles for thebuilding of the body of their two trucks and the need was urgent and repeated for permission being granted immediately as the trucks were to be sent forthwith to the Government foodgrains transport. It appears that the Supervisor, Building Materials, Poona visited the premises of the National Commercial Corporation on the 12th December 194? and the Corporation seems to have apprised the Supervisor of the use or the proposed use by them of the material for the cow shed and the body building. It is true that this letter is dated the 2nd December 1948 and they mentioned therein the Supervisor's inspection on the 12th December 1948. It seems that this letter was received by the Supervisor, Building Material, Poona on the 20th December 1948 and it is therefore evident that though the original letter was dated the 2nd December 1948, the postcript to that letter must have been written later on the 12th December 1948. The Supervisor replied to this letter on the 23rd December 1948 in which reply he had made it very clear that the cow shed appeared

to have been built without prior sanction of the Provincial Iron and Steel Rationing Officer and material used for unauthorised work. The National Commercial Corporation were clearly told that they had committed a breach of the order. Regarding the material for the body building of trucks also the Supervisor informed the National Commercial Corporation that the material should not be used for that purpose without the prior permission in writing of the Provincial Iron and Steel Rationing Officer, Poona, otherwise it would amount to unauthorised use. From this letter of the Supervisor, it is quite evident that the contention of Messrs. National Commercial Corporation that they were permitted by the Supervisor to construct the shed and to use the angles for the body building of trucks is not correct. The whole question was considered by the Secretary, Public Works Department who ultimately came to the conclusion that as regards the cow shed it was a technical offence since it would have been permitted if applied for in time but as regards using steel for motor building, it was in clear defiance of the Supervisor, Building Material, Poona's letter dated the 23rd December 1948 and therefore the police should take necessary action against the Corporation.

Contd.

Papers were sent to the Police for investigation. On the report of the P.S.I.L.C.B., Belgaum, the Senior Public Prosecutor, Belgaum, came to the conclusion that there was no offence to breach of the licence (permit) condition and therefore the case under section 7 of the Essential Supplies (Temporary Powers) Act, 1946 would not stand and the case may be registered for 'C' summary. All the facts as stated in the P.S.I.'s report regarding the delay of four years and regarding the implied permission etc. are not correct. The case is, therefore, a fit one for filing a prosecution although as stated by the Secretary, Public Works Department the use of iron for cow shed is likely to be held by the Court to be a technical offence.

Sd/-
/ o/o

Secretary to Government.

U.R.to P.W.D.,No. G- 461. dated the 4th August 1953.

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